Sunset Public Hearing Questions for **State Textbook and Instructional Materials Quality Commission**

Created by Section 49-6-2201, *Tennessee Code Annotated* (Sunset Termination June 2023)

Enabling Statute, Purpose, and Rules and Regulations

1. Provide a brief introduction to the commission, including information about its purpose, statutory duties, staff, and administrative attachment. The State Textbook and Instructional Materials Quality Commission ("Commission"), authorized by T.C.A § 49-6-2201, et. seq. is composed of 12 members whose primary responsibility is to prepare and recommend an official list of textbooks and instructional materials for approval by the State Board of Education ("the State Board") for use in the public schools of the state. The Commission's statutory duties include: developing rules for the bidding and contracting of textbooks; reviewing bids for alignment with Tennessee Academic Standards; adopting minimum manufacturing standards and specifications for materials; appointing advisory panels and establishing contracts that guarantee the availability of adopted programs to all LEAs at the lowest price; issuing guidance to LEAs and public charters schools to use when reviewing materials in a library collection for age and maturity appropriateness, assisting LEAs and public, establishing a timeline and process for a student, a student's parent or guardian, or a school employee to appeal a determination made by the student's or employee's local board of education or public charter school governing body that materials in a school's library collection are inappropriate for the age or maturity levels of the students who may access the materials.

The Commission does not have a staff of its own, and the Department of Education's (department's) support for the commission is specifically delimitated and constrained in code. The Commission is assisted by the department's Chief of Academics, the Assistant General Counsel for Procurement, the Senior Director of Math, Science, and Instructional Materials, an administrative assistant and content experts as needed. The department administers and coordinates processes for bidding, reviewing, listing, adoption and approval, and supports the implementation of Commission rules, policies, and procedures. In addition, the Department is responsible for assisting the Commission by providing mandatory training to newly appointed members of the Commission and advisory panel members.

2. Has the commission promulgated rules and regulations? If yes, please cite the reference. Yes, Chapter 0520-05-01 Supplement to Contract - Policies of the Tennessee State Textbook Commission

Commission Organization

3. Provide a list of current members of the commission. For each member, please indicate who appointed the member, statutory member representation, the beginning and end of the member's term, and whether the member is serving a consecutive term.

The Commissioner of Education or her designee serves as an ex ofcio, non-voting member of the Commission. The other 11 voting members are as follows:

Member Name	Term Start	Term Expiration	Position	Appointed by	Consecutive Term?
Deborah Chancellor	7/1//21	6/30/24	Teachers or Instructional Supervisors, Grades K-3	Speaker	No
John Combs	7/1/20	6/30/23	Director of Schools	Speaker	No
Vacant	7/1/22	6/30/25	Middle Tennessee Public Member	Speaker	N/A
Lee Houston	7/1/22	6/30/25	Librarian or Retired Librarian	Speaker	No
Dr. Linda Cash	7/1/20	6/30/23	Director of Schools	Lt. Governor	No
Vacant	7/1/22	6/30/25	East Tennessee Public Member	Lt. Governor	N/A
Dr. Katharine Hicki	7/1/21	6/30/24	Teacher or Instructional Supervisor, Grades 4-8	Lt. Governor	No
Vacant	7/1/22	6/30/25	Librarian or Retired Librarian	Lt. Governor	N/A
Dr. Mark Gonyea	7/1/20	6/30/23	Principal	Governor	No
Billy Bryan	7/1/21	6/30/24	Teacher or Instructional Supervisor, Grades 9-12	Governor	Yes
Daniel French	7/1/22	6/30/25	West Tennessee Public Member	Governor	No

4. Are there any vacancies on the commission? If so, please indicate how long the position has been vacant and explain steps that have been taken to fill any vacancies. The Commission has three vacancies. Two are for seats that carried terms that expired on June 30th of this year. These two seats were filled prior to these terms expiring.

Additionally, these two seats are the public member seats (one from the east grand division and one from the middle grand division). These seats are typically more difficult to fill given the nature of the statutory role (a member of the public who is not an educator but familiar with educational issues). One of the expiring members was reappointed (East Tennessee Public Member, Lt. Governor Appointee); however, the appointee declined his reappointment. New members for these two seats are currently under consideration by each appointing authority. The final vacancy is for a Lt. Governor appointed Librarian or Retired Librarian. This seat was just recently created by Public Chapter 1137 of the 112th General Assembly, now codified at T.C.A. § 49-6-2201 (a)(1), and the term for this position did not commence until July 1st of this year.

5. How many times did the commission meet in each of the last two fiscal years? How many members were present at each meeting? Please note meetings where the commission did not have a quorum.

July 2020-July 2021: 2 convenings

- March 12, 2021-7 members present
- April 22, 2021-8 members present

July 2021-July 2022: 4 convenings

- July 13, 2021-6 members present
- September 9, 2021-8 members present
- January 10, 2022-rescheduled due to lack of quorum
- February 1, 2022-8 members present
- March 21, 2022-9 members present

July 2022-July 2023: to date, 1 convening

- July 11, 2022- rescheduled due to lack of quorum
- July 25, 2022-8 members present
- Next Scheduled meeting: September 22,2022

Financial Information

- 6. What were the commission's revenues and expenditure for each of the last two fiscal years? Does the commission carry a fund balance? If yes, please provide additional relevant information regarding the fund balance.
 - The commission does not have a unique budget, funding for travel expenses and for advisory panelists is allocated to the department and budgeted to support the Commission. There is no source of either revenue or expenditure for the Commission. Additionally, there is no fund balance to carry.
- 7. What per diem or travel reimbursements do commission members receive? How much was reimbursed to commission members in each of the last two fiscal years? Are reimbursement amounts tracked for each commission member?
 - Commission members may submit reimbursement for travel, lodging, and a per diem for meals. Reimbursement amounts are tracked by Commission member. Over the past two fiscal years, Commission members have submitted \$1,020.05 in reimbursement requests.

Sunshine Law, Public Meetings, and Conflict of Interest Policies

- 8. Is the commission subject to Sunshine law requirements (Section 8-44-101 et seq., Tennessee Code Annotated) for public notice of meetings, prompt and full recording of minutes, and public access to minutes? If so, what procedures does the commission have for informing the public of meetings and making minutes available to the public? Has adequate public notice been given prior to commission meetings held in the last two years? Yes. Meetings of the Commission are open to the public and made available for viewing by the public over the Internet by streaming video accessible from the Commission's page on the Department's website: https://www.tn.gov/education/textbookservices/commission-meetings-and-workshops.html. Archived videos of the Commission's meetings are also available to the public through the Commission's page on the Department's website. Notice of regular meetings are posted on the Commission's page on the Department's website within 3 full business days of the setting of the meeting dates and notice of special called meetings is posted within 1 full business day of the call. The Department designates a member of its staff to serve as secretary to the Commission and record minutes at each meeting, and agenda, minutes, and related documents are available for viewing by the public on the Commission's page on the Department's website following each meeting. The Commission approves adoption of the previous meeting's minutes to ensure accuracy.
- 9. Does the commission allow for public comment at meetings? Is prior notice required for public comment to be heard? If public comment is not allowed, how does the commission obtain feedback from the public and those they regulate?

 All interested persons are invited to attend Commission meetings. Meeting participants wishing to speak are required to provide prior notice by completing the form provided on the Commission's page on the Department's website prior to the meeting. Time for public comment is scheduled on every meeting agenda when prior notification is received. The Chair may recognize additional speakers at his/her discretion.
- 10. Does the commission have policies to address potential conflict of interest by commission members, employees, or other state employees who work with the commission? Before members of the Commission discharge their duties, they take and subscribe to the following oath pursuant to T.C.A. § 49-6-2001(g): "I do hereby declare that I am not now directly or indirectly financially interested in, or employed by, any textbook or instructional materials publisher or agency, and that I will not become directly or indirectly financially interested in any of the proposed contracts, nor in any book or instructional materials, nor in any publishing concern handling or offering any books or other publications to the commission, of which I am a member, for listing and adoption, and I do hereby promise that I will act honestly, faithfully and conscientiously, and in all respects will discharge my duty as a member of this commission to the best of my skill and ability."

Advisory Panels

11. Please provide a list of current members of the advisory panel of experts in each subject area or grade level who advise the commission on selection of textbooks and instructional

materials selections, as authorized by Section 49-6-2201(n)(1)(a), Tennessee Code Annotated. If a list of current members is not available, please provide a list of the most recent advisory panel of experts in each subject area.

The most recent set of advisory panelists supported the Commission's review of mathematics materials. Their contracts expired at the end of June 2022. The list of panelists is provided below.

K-2 Panel Tracy McAbee High School-Traditional Felicia Bates Megan Moore Sequence Cindy Cliché Melissa Roberts Allison Bellissimo Heather Crowson Jessica Willings Heather Gay Rachel Dernell Sarah Ladford Monica Robbins Melanie Peel 6-8 Panel Jennifer Caldwell Melinda Pierce Angela Rowe Anna Sayler Anna Connor Karoline Stache Alicia Ann Smith Laura Fleenor Michael Young Dara Wade Melinda Fleischer Tyrunya Goodwin High School-Integrated Rachel Jernigan 3-5 Panel Sequence Stacy Carson Stephanie Miller Beth Fugate Elizabeth Petty Sarah Harris Tamala Miller Amber Justis Margaret Oliver Kyle Prince Melissa Logsdon Melynda Whitaker Susan Loveless

- 12. For the advisory panels discussed in Question 12, how are advisory panelists selected? Advisory panelists were selected through an application process. Per the request of the Commission, the application was divided into two sections. The first section asked about a candidate's background and their qualifications to do the work. The second section focused on the candidate's subject matter expertise. Per the request of the Commission, commission members scored section 1 and subject matter experts from the department scored part 2. The two scores were combined and the Commission selected those applicants who met the cut score pre-determined by the Commission.
- 13. How are advisory panelists trained to conduct reviews? Has the commission experienced any issues with recruitment, training, or implementation of the reviews? Pursuant to T.C.A. § 49-6-2201 (l)(2), "The department of education shall assist the commission by providing mandatory training to members of advisory panels on the review process and the completion of their assigned tasks. The mandatory training shall include:

(A)

(i) The requirements for performing a thorough review of all textbooks or instructional materials assigned to a member for review. The review shall

include an examination as to whether the textbooks or instructional materials:

- (a) Conform to the standards for their subject areas or grade levels;
 - (b) Are free of any clear, substantive, factual, or grammatical errors; and
 - (c) Comply with and reflect the values expressed in § 49-6-1028(b), if the textbook or instructional materials are being considered for adoption as a textbook or instructional materials for education of students in general studies and specifically in United States history and this nation's republican form of government; and
- (ii) Nothing in this part prohibits the use of or applies to supplemental instructional materials;
- (B) The use of any forms developed by the commission for making a review; and (C) The time frame for completing their tasks."

In reflecting on past practice, the Commission took intentional actions within both the application process and advisory panelist training to include measures designed to ensure a robust, competency-based model for the selection and training of advisory panelists. The Commission was very intentional and diligent in thinking through previous adoption cycles and putting corrective measures into place where challenges had been identified. The Commission opted to hire a smaller pool of strong candidates who demonstrated the competencies of both subject-area expertise and an understanding of high-quality instructional materials. The second section of the afore-mentioned application focused primarily on weighing an applicant's subject matter expertise. Additionally, a significant portion of the two-day training provided to the selected advisory panelist was spent on further developing and refining their deep understanding of the mathematics standards as well norming on how to find evidence of the tenets of high-quality mathematics instruction within materials. Further, the Commission approved a timeline which intentionally extended the window of review as well as built in supports throughout the process to screen for norming offering support when needed to ensure a more effective, coherent process. Commission Chair, Dr. Linda Cash, was intimately involved in the process, with all application steps and recruitment conducted at her direction and approval. One final note, advisory panelists were provided increased funding for their reviews to maximize the competitive nature of the application process and fairly compensated for the important task completed. This level of compensation will help ensure that those most qualified will want to be a part of this process in subsequent review cycles.

14. How many sets of materials was each advisory panel expert responsible for reviewing? How long were they given to complete the reviews?

Panelists were given from April 23, 2022 through June 24, 2022 to complete and submit reviews of their assigned materials. The panelists for grades K-2, 3-5, and 6-8 each reviewed either 9 or 12 materials. The high school panelists each reviewed between 16 and 18 materials.

15. What per diem or travel reimbursement do panel members receive? How much was reimbursed to panel members in each of the last two fiscal years? Advisory panelists were paid \$1500 to complete their required training. Per diem and travel were included within that \$1500. Advisory panelists were paid on average \$8,500 for K-8 panelists and \$12,750 for high school panelists. The cumulative amount paid for the mathematics material review was \$412,500.

Textbook Reviews

- 16. Describe the process the commission uses to prepare a list of standard editions of textbooks and instructional materials approved by the State Board of Education. Who reviews the textbooks and instructional materials? What factors are considered and what additional information is provided (e.g., by publishers)?
 - Textbooks and instructional materials are first reviewed by the state advisory panels. Since 1986, the Commission has used an advisory panel of expert teachers in each subject area or grade level to advise the commission on book selections. The state advisory panels thoroughly review all the books and instructional materials submitted. The state advisory panels base their reviews on a textbook and instructional materials screening instrument approved by the Commission. This screening instrument includes an examination as to whether the textbooks or instructional materials:
 - i. Conform to the standards for their subject areas or grade levels;
 - ii. Are free of any clear, substantive, factual or grammatical errors; and
 - iii. Comply with and reflect the values expressed in § 49-6-1028(b), if the textbook or instructional materials are being considered for adoption as a textbook or instructional materials for education of students in general studies and specifically in United States history and this nation's republican form of government.

After review of the textbooks and instructional materials the reviews of each member of an advisory panel are posted on the Commission's page on the Department's website for public review and comment. The advisory panelists then individually make their recommendations to the Commission. Each advisory panelist must review all the public comments on the textbook or instructional materials that are received and must consider those public comments in making their recommendation to the Commission.

Once a recommendation has been made from the advisory panel, the Commission is then responsible for ensuring all recommendations: (1) conform to the academic standards for its subject area or grade level; (2) are free of any clear, substantive, factual or grammatical error; (3) comply with and reflect the values expressed in § 49-6-1028(b), if the textbook or instructional materials are being considered for adoption as a textbook or instructional materials for education of students in general studies and specifically in United States history and this nation's republican form of government. The Commission must also review all public comments posted on the Commission's page on the Department's website before issuing a recommendation to the State Board of Education.

17. How does the Tennessee Department of Education determine internal staffing needs for the commission? How many staff are assigned to work with the commission, and what are

their responsibilities? Are these staff members assigned full-time or part-time to work with the commission?

Staffing needs are based on the complexity of the adoption process. Several partial FTEs are assigned to support the commission and oversee the design and implementation of the textbook adoption process.

- 18. For the reviews referenced in Question 17, how much does a review typically cost? If available, please provide a breakdown of costs for the most recent adoption cycle. The cost differs depending on the content area but can range from \$400,000 to \$800,000. The English Language Arts (ELA) adoption budget was \$750,000. ELA is typically the most expensive adoption cycle because it requires the most expert reviewers. The budget for the current math adoption was \$400,000, however the project went over budget by \$12,500 as there were more materials bid than anticipated.
- 19. Is public input received (other than through the citizen members on the commission)? If so, how is public input solicited and in what form are comments provided to the commission?

Members of the public have the opportunity to review all textbooks and instructional materials bid, submit their comments to the Commission, and speak before the Commission. The Commission seeks input from the public through online access provided by the publishers. The Department announces when the textbooks and instructional materials are available for public review online during the state textbook review and approval process. The public can view textbooks and instructional materials at the same time as the advisory panels are analyzing them, prior to the approval of the books. The public can submit feedback on the books and their input is sent to the publishers and the Commission for their consideration during the approval process. The public can continue to view and submit feedback on the approved textbooks and instructional materials by accessing the materials online or by contacting their local school district to view copies of the textbooks and instructional materials.

The Commission's public comment form (<u>here</u>) allows individuals to provide feedback on any textbook or instructional material that has been approved by the State Board or is going through the approval process.

20. Describe the process local school boards use in selecting textbooks and instructional materials from the lists approved by the commission.

T.C.A § 49-6-2207 outlines the local board adoption process. After the State Board has officially approved the recommended textbook and instructional materials list from the Commission, local boards of education must appoint review committees to review the textbooks and instructional materials proposed for adoption and make their adoption upon recommendations of such committees. These committees are set up by grade and subject matter fields and composed of teachers, or supervisors and teachers, and parents with children enrolled in the LEA at the time of appointment to a committee. The local board may also appoint experts in the grade level or subject matter field for which textbooks and instructional materials are to be reviewed. Teachers and supervisors who serve on a committee must be teaching or supervising the respective grade or subject at

the time of appointment and must be licensed to teach in the state with endorsements in the subject matter or grade level for which textbooks or instructional materials are being reviewed. Teachers and supervisors must have three or more years of experience as teachers or supervisors in the public schools. The director of schools in the LEA adopting textbooks or instructional materials serves as an ex officio member of all committees. LEAs must comply with all applicable state laws in their selection process.

After the committees make their recommendations to the local board of education, the director of schools records the list of all textbooks or instructional materials adopted by the local board of education, and forwards a copy of the recorded adoption to the commissioner of education and posts the list on the LEA's web site. The selection of a textbook is exclusively the responsibility of the local district. Each community has the opportunity to review the content of the books to ensure that the content reflects the values of the local community.

21. Describe the process the commission uses in contracting with publishers. Include a discussion of how the commission determines which publishers will receive notices, what factors/information the commission considers in reviewing bids, and how often contracts are bid. Provide a list of publishers currently contracting with the commission as well as a list of which publishing companies bid and that percentage that passed/failed for a review.

In compliance with T.C.A. § 49-6-2203, the Commission releases an invitation to bid to textbook publishers 30 days prior to the deadline for receipt of bids. Publishers that wish to receive information on information regarding textbooks and instructional materials can request to be added to the Commission's distribution list on the Commission's page on the Department's website. Bid cycles are also sent via a listserv maintained by the Association of American Publishers. The invitation to bid includes details on the subject/content area to be bid, instructions for submitting bids, and materials required to be submitted with the bids. A publisher pre-bid conference is also held during this period to provide additional details about the bidding process and answer any publisher questions. Content experts from the Department conduct an in-depth standards review with the publishers and also give a thorough explanation of the review instrument. This encourages publishers to align materials to Tennessee standards and also lets publishers know how materials will be assessed before they begin to create them.

The Commission received bids, reviews them and approves them during an open meeting. The Commission reviews bids for factors including: minimum content and reading level; alignment with the Tennessee Academic Standards; compliance with the minimum manufacturing standards and specifications for textbooks; substantive, factual or grammatical error; reflection of the values expressed in § 49-6-1028(b), if the textbook or instructional materials are being considered for adoption as a textbook or instructional materials for education of students in general studies and specifically in United States history and this nation's republican form of government; and public comments. The Commission aims to provide at least 4 books in each subject and grade for adoption by the State Board, if available and of sufficient merit to warrant being listed.

Following the State Board's adoption of the approved list, contracts for the textbooks/materials are executed in duplicate by the Commissioner as secretary of the Commission, on forms prepared and approved by the attorney general and reporter. As required by T.C.A. § 49-6-2203, the Commission may make contracts with the publishers for a period of no less than 36 months nor more than 73 months. The Commission then publishes the official textbook list which contains the title of the textbook listed for adoption, the names of the publishers and the prices at which the books are available.

Publisher contract documents must include the following: ensuring the books' or the materials' accuracy; certifying that the textbooks have been thoroughly examined and reviewed by qualified content experts for factual accuracy. Publishers must list the professional credentials for at least 3 content review experts who have thoroughly examined the textbook or instructional materials for content accuracy; certifying that the textbook or instructional materials have been thoroughly examined and reviewed by qualified editors for typographical errors and errors in grammar, written expression, spelling, formatting and other substantive elements that may affect student learning; and agreeing to correct all factual and editing errors found in a textbook or instructional materials, at the publisher's expense. Publishers must submit a corrective action plan to the Department, for review and approval by the State Board, within 30 days of the TDOE's notification of the existence of errors in the textbook or instructional materials.

The Commission recommends, and the State Board approves, the adoption cycle of textbooks, and contracts are rebid in accordance with that adoption cycle.

For the current mathematics adoption cycle, the following publishers submitted bids: Accelerate Learning Inc., Amplify Education, Inc., Bedford, Freeman & Worth Publishing Group, LLC, Big Ideas Learning, LLC, Cengage Learning, Inc., CPM Educational Program, Curriculum Associates LLC, Great Minds PBC, Houghton Mifflin Harcourt, Wiley a division of Houghton Mifflin Harcourt, Imagine Learning LLC, Mathspace, Open Up Resources, Pearson Virtual Schools USA, Savvas Learning Company, and Zearn.

It is important to note that 53% of these publishers have previously bid within Tennessee. 47% have never bid math material in Tennessee before.

22. On first reading, 59% of the materials passed the Commissions rigorous screener. Currently publishers are in a window to appeal the Commission's recommendation. Those appeals will be heard at the September 22, 2022 convening of the Commission. How does the Tennessee Department of Education allocate funds for an adoption cycle? If the cycle goes over budget, where do the funds come from?

The Commission receives an annual appropriation. If the cost of a review cycle goes over budget it comes out of the Department's budget.

Reports, Major Accomplishments, and Proposed Legislative Changes

- 23. What were the commission's major accomplishments during the last two fiscal years?
 - Successfully working through the mathematics adoption with a Commission where all of the Commission members are working through their first adoption cycle
 - Consistency of the Commission Chair
 - A positive working relationship between the Commission and the Department. Clearly defined statutory boundaries are upheld while lines of communication remain open.
- 24. What, if any, challenges has the commission faced in the last two fiscal years?

- Meeting in person and achieving a quorum has been a challenge at times..
- Speed at which new members can be appointed. Having 3 members roll off the commission simultaneously made quorum for a subsequent meeting difficult to obtain.
- 25. Please describe any items related to the commission that require legislative attention and your proposed legislative changes.

The Commission has received questions relating to the changing format, volume and varied structures that publishers are using to produce materials. In the past, materials reviewed by the commission included a teacher book, a student book, and possibly a small number of ancillaries. This is still the case for some publishers while others have all online resources, which has increased in recent years due to the evolving education landscape and the increased presence of public virtual schools. Current policies, procedures and statutes are not always conducive to a review process that entails such a high volume of digital resources.

26. Additionally, the Commission's emergency rules authority may need to be clarified, as the current language is somewhat vague, in order to address emerging issues faced by the Commission. Should the commission be continued? To what extent and in what ways would the absence of the commission affect the public health, safety, or welfare of the citizens of Tennessee?

The Commission has played an important role since its inception in 1986. However, as districts are moving toward more online and open source resources, it might be prudent to reevaluate and update the Commission to reflect the changes in the textbook process to ensure it is continuing to fulfill its intended purpose.

27. Please identify the appropriate agency representative or representatives possessing substantial knowledge and understanding of the responses provided to the sunset review questions.

Dr. Linda Cash, Director of Schools (Bradley County Schools), Chair (Tennessee Textbook and Instructional Materials Quality Commission)

Dr. Lisa Coons, Chief of Academics

Joanna Collins, Assistant General Counsel for Procurement

Charlie Bufalino, Assistant Commissioner of Policy & Legislative Affairs

Virginia Mayfield, Senior Director of Math, Science, and Instructional Materials

28. Please identify of the appropriate agency representative or representatives who will respond to the questions at the scheduled sunset hearing.

Dr. Linda Cash, Director of Schools (Bradley County Schools), Chair (Tennessee Textbook and Instructional Materials Quality Commission)

Virginia Mayfield, Senior Director of Math, Science and Instructional Materials Charlie Bufalino, Assistant Commissioner for Policy and Legislative Affairs

29. Please provide the office address, telephone number, and email address of the agency representative or representatives who will respond to the questions at the scheduled sunset hearing.

Virginia Mayfield, virginia.mayfield@tn.gov, 615-417-1495 Charlie Bufalino, charlie.bufalino@tn.gov, 615-651-9932 Office Address:

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